

**REMARKS**

This paper is in response to the non-final official action of September 17, 2007, wherein (a) claims 1-21 were pending, (b) claims 1-16 and 21 were rejected, (c) claims 17-20 were objected to but deemed allowable in substance, (d) the drawings were objected to, and (e) claim 1 was objected to.

This response is timely filed, as it is accompanied by a petition for automatic extension of time to file in the first month and the requisite fee.

By the foregoing, the drawings have been amended by (a) enlarging and placing Fig. 1 on a single sheet and amending Fig. 1 to include the detail of the concave ends of pins 15, (b) adding Fig. 3A, which shows the conical, cylindrical marker body 11, and (c) redrawing Fig. 5 in isometric view in order to show all the elements recited in objected-to claims and to illustrate the markers in a non-collinear pattern within in the bone 20.

The specification has been amended accordingly.

Claim 1 has been amended to incorporate limitations of claims 4, 11, and 17; claims 2, 4, 11, and 17 have been canceled; and the respective dependencies of claims 5, 7, 8, 10, 12, 13, 14, 15, and 18 have been amended accordingly.

Reconsideration of the application, as amended, is solicited.

The issues raised in the action will be addressed in order appearing therein.

***Drawings***

The drawings have been objected to as not showing every feature of the invention specified in the claims. The drawings have been amended in order to show the marking bodies being arranged in a non-collinear manner and/or spanning a plane as recited in claim 6 (see amended Fig. 5), the marking bodies being cylindrical as recited in claim 8 (see Fig. 3A), the marking bodies defining a conical tip as recited in claim 9 (see Fig. 3A), and the pins having a concave end face as recited in claim 13 (see amended Fig. 1).

It is submitted that Fig. 5 now shows all the possible combinations relating to the end or the "and/or" statement of claim 6, i.e. the marking bodies being arranged

in a non-collinear manner or the marking bodies being arranged in a non-collinear manner and spanning a plane.

Corrected drawing sheets in compliance with 37 CFR 1.21(d) are submitted herewith consistent with the examiner's requirement.

Reconsideration and withdrawal with the objections to the drawings, are believed proper, and are solicited.

***Claim Objections***

Claim 1 has been objected to as not affirmatively requiring the device to have the magazine attached to the magazine retainer. Claim 1, as amended, recites that the magazine is attached to the magazine retainer, and it is thus believed that the objection to claim 1 is overcome. An indication to that effect is solicited.

***Claim Objections - 35 USC § 112***

Claim 7-10 have been rejected under 35 USC 112, second paragraph, as being indefinite, do to an alleged inconsistency between the language of claim 1 in that of claim 7-10.

It is believed that the amendments to claim 1, which now recites the forceps in combination with the magazine attached to a magazine retainer overcomes the basis for the basis for this rejection, and an indication to that effect is solicited.

***Claim Rejections - 35 USC § 102***

Claim 1-16 and 21 have been variously rejected as anticipated by Wyatt (claims 1-6), Bauer (claims 1, 3, 7-9, and 21), Mallina (claims 1, 2, 4, and 16), or Fleischer (claims 1, 2, 4, and 6), or obvious over Wyatt any of various references taken alone or in combination.

Claims 17-20 have been deemed allowable in substance.


In response, claim 1 has been amended to incorporate the limitations of claim 17 and those of intervening claims 2, 4, and 11 in order to expedite prosecution and place the application in condition for allowance.

In view thereof, as recognized by the examiner, it is submitted that all claims 1, 3, 5-10, 12-16, and 18-21 are in condition for allowance, and such action is solicited.

Should the examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, he is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

By   
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